IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6718 of 1999

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

BAHADURSINH VAKHATSINH JADEJA

Appearance:

MR HARDIK C RAWAL for Petitioner

MR MUKESH H RATHOD for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 28/02/2000

ORAL JUDGEMENT

1. On a joint request of learned counsel for the respective parties this petition is taken up for final hearing today.

2. As a result of the hearing and discussion a consensus has been arrived at between the learned

counsel, after due consultation with their respective clients, on the basis of which it is declared that the question of appropriate punishment is left entirely to the discretion of this Court.

3. This is a petition under Article 227 of the Constitution of India though styled as one under Articles 14, 226 and 227 of the Constitution of India.

4. The respondent workman was working as a conductor at the relevant point of time, when during surprise checking it was found that he had collected fares from different groups (more than one) of passengers, but had not issued tickets to any of the groups. The only explanation offered by the respondent workman (Exh.22) is to the effect that on the relevant day his health was not good and that he is only somewhat educated and that therefore he was working slowly and therefore although he had collected the fares, tickets were yet to be issued.

5. The Labour Court has found that the explanation offered by the conductor is not acceptable for the simple reason that this explanation was offered by the conductor at the fag end of the checking proceedings. The Labour Court has also referred to the default card in respect of the conductor at Exh.54 (Exh.56?). I have considered the relevant facts and circumstances of the case and I am in agreement with the findings of the Labour Court to the effect that the misconduct committed by the workman is proved. However, I do not agree with the observations recorded by the Labour Court that the punishment imposed upon him is on the basis of presumptions and inferences, and that therefore the conductor cannot be said to have committed misappropriation, but only appears to have been negligent. I, therefore, cannot agree with the observations of the Labour Court that a relatively lenient view is required to be taken.

6. On the facts and circumstances of the case, therefore, I cannot approve of the punishment awarded by the Labour Court viz. reinstatement without backwages and stoppage of two increments for three years without cumulative effect.

7. As aforesaid, learned counsel for the respective parties have agreed to leave the question of punishment entirely to the discretion of this court. In this context I have referred to such documentary and oral evidence to which my attention has been drawn and I have considered the submissions of the respective counsel on the question of appropriate punishment. In view of the

particular facts of the case I am of the opinion that interests of justice would best be served by substituting the order of punishment imposed by the impugned judgement and award by directing that the respondent workman be taken as a fresh recruit at the bottom of the current payscale.

8. The impugned judgement and award of the Labour Court is accordingly modified to the aforesaid extent. Rule is made absolute accordingly with no order as to costs.

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